

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

KIRKLAND SCOTT, # 690155,

Plaintiff,

vs.

Civil Case No. 15-13017

BARACK OBAMA, et. al.,

HONORABLE MARK A. GOLDSMITH

Defendants,

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OPINION AND ORDER OF SUMMARY DISMISSAL

Plaintiff Kirkland Scott, currently incarcerated at the Baldwin State Prison in Hardwick, Georgia, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. (Dkt. 1). On August 31, 2015, Magistrate Judge R. Steven Whalen signed an order of deficiency, which required Plaintiff to file pay the \$350.00 filing fee and the \$50.00 administrative fee or to submit an application to proceed in forma pauperis within thirty days of the order. (Dkt. 4). To date, Plaintiff has failed to comply with the order. For the reasons stated below, the Complaint is dismissed without prejudice.

DISCUSSION

The Prisoner Litigation Reform Act of 1995 (PLRA) states that “if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee.” 28 U.S.C. § 1915(b)(1) (as amended). See also In Re Prison Litigation Reform Act, 105 F.3d 1131, 1138 (6th Cir. 1997). The in forma pauperis statute does provide prisoners the opportunity to make a “down payment” of a partial filing fee and pay the remainder in installments. See 28 U.S.C. § 1915(b)(1), (2); Miller v. Campbell, 108 F.Supp.2d 960, 962 (W.D. Tenn. 2000). Under the PLRA, a prisoner may bring a civil action in forma pauperis if he

files an affidavit of indigency and a certified copy of the trust fund account statement for the six-month period immediately preceding the filing of the complaint. See 28 U.S.C.A. § 1915(a)(1), (2). If the inmate does not pay the full filing fee and fails to provide the required documents, the district court must notify the prisoner of the deficiency and grant him thirty days to correct it or pay the full fee. See Erby v. Kula, 113 F. App'x. 74, 75-76 (6th Cir. 2004). If the prisoner does not comply, the district court must presume that the prisoner is not a pauper, assess the inmate the full fee, and order the case dismissed for want of prosecution. Id.

The Court dismisses the complaint for want of prosecution, because of Plaintiff's failure to comply with Magistrate Judge Whalen's deficiency order by failing to timely pay the filing fee or to provide the requested documentation needed to proceed in forma pauperis. See id.; Davis v. United States, 73 F. App'x. 804, 805 (6th Cir. 2003).

Accordingly, the Court **DISMISSES** the Complaint without prejudice under 28 U.S.C. § 1915(a)(1) and (b)(1) and (2) for failure to comply with the filing requirements of the Prison Litigation Reform Act.

SO ORDERED.

Dated: October 30, 2015
Detroit, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on October 30, 2015.

s/Karri Sandusky
Case Manager